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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

# SUMMARY RECORD OF THE 589th MEETING

Held at the Vienna International Centre, Vienna,
on Monday, 18 March 1996, at 10 a.m.

**Chairman**: Mr. MIKULKA (Czech Republic)

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Distr.: 26 March 1996

*The meeting was called to order at 10.15 a.m.*

**OPENING OF THE SESSION**

1. **The CHAIRMAN** opened the session and said he was confident that the spirit of mutual accommodation, respect and compromise that had always guided the Subcommittee's work would remain unchanged, and that the current session would be productive.

**PARTICIPATION BY NON-MEMBER STATES**

2. **The CHAIRMAN** said that Saudi Arabia, Slovakia, Thailand and the League of Arab States had applied to participate in the work of the Subcommittee. As the granting of observer status was a prerogative of the Committee on the Peaceful Uses of Outer Space, he suggested that the Subcommittee should not adopt a formal decision on the matter but that, if there was no objection, the representatives of those countries and the League of Arab States should attend the Subcommittee's formal meetings and, if they wished to make statements, seek permission from the Chair.

3. *It was so decided.*

**PROGRAMME OF WORK AND ADOPTION OF THE AGENDA** (A/AC.105/C.2/L.199)

4. **The CHAIRMAN** drew the Subcommittee's attention to General Assembly resolution 50/27 of 6 December 1995, which contained decisions by the General Assembly regarding the current session, and particularly to paragraph 4, concerning the Subcommittee's mandate, paragraph 7, relating to the organization of its work, and paragraph 12, concerning a review of the requirement for summary records. The Subcommittee would recall that, at its previous session, it had agreed that he should conduct open-ended informal consultations with all its members at the current session with a view to identifying, on the basis of consensus, a subject or list of subjects that might be considered, in the future, for inclusion in the Subcommittee's agenda; and it had recommended that an item entitled "Other matters" should be included in the agenda of its future sessions for consideration at one three-hour meeting unless a consensus decision was taken to allocate more time for that purpose (see document A/AC.105/607 and Corr.1, paras. 53-54). Finally, he drew attention to the provisional agenda (A/AC.105/C.2/L.199) prepared by the Secretariat on the basis of General Assembly resolution 50/27. If he heard no objection, he would take it that the Subcommittee wished to adopt the provisional agenda.

5. *It was so decided.*

**ORGANIZATION OF WORK**

6. **The CHAIRMAN** noted that, in accordance with the General Assembly's recommendations, open-ended working groups should be established on agenda item 4 ("Matters relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union") and agenda item 5 ("Consideration of the legal aspects related to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries"). In resolution 50/27, the General Assembly had endorsed the recommendation of the Committee on the Peaceful Uses of Outer Space that the Legal Subcommittee should suspend

consideration in the relevant working group of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, without prejudice to the possibility of reconvening the working group if sufficient progress was made in the Scientific and Technical Subcommittee at its 1996 session to warrant such action. As indicated in the report on the thirty-third session of the Scientific and Technical Subcommittee, held from 12 to 23 February 1996 (A/AC.105/637), that Subcommittee considered that, at the present time, revision of the Principles was not warranted. He therefore suggested that the working group on agenda item 3 ("Question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space") should not be reconvened at the current session.

7. *It was so decided.*

8. **The CHAIRMAN** suggested that the Working Groups on agenda items 4 and 5 should be re-established.

9. *It was so decided.*

10. **The CHAIRMAN** said that, if there was no objection, he would take it that the Subcommittee wished to re-elect Mr. Eugenio María Curia, of Argentina, as Chairman of the Working Group on the Definition of Outer Space and Utilization of the Geostationary Orbit.

11. *It was so decided.*

12. **The CHAIRMAN** said that, if there was no objection, he would take it that the Subcommittee wished to re-elect Mr. Raimundo González, of Chile, as Chairman of the Working Group on the Benefits of Outer Space.

13. *It was so decided.*

14. **The CHAIRMAN** said that the utilization of conference services was of great concern to the General Assembly due to their high cost and the financial constraints faced by the Organization. For a number of years the Subcommittee had maintained the required efficiency in that area by adopting various appropriate measures. It had agreed at its previous session that an organization of work similar to that adopted at its thirty-fourth session should serve as a basis for organizing the work of its thirty-fifth session (A/AC.105/607 and Corr.1, para. 14). That agreement had been endorsed by the Committee on the Peaceful Uses of Outer Space at its June 1995 session (A/50/20, para. 190). The Subcommittee had further agreed on additional measures aimed at improving its working methods (A/AC.105/607 and Corr.1, paras. 46-56). The Committee on the Peaceful Uses of Outer Space had reiterated its recommendation (A/50/20, para. 189) that the Legal Subcommittee, on a permanent basis, should rotate the order of consideration of substantive agenda items. It had, however, endorsed the Subcommittee's recommendation that the order of rotation should be suspended for the 1996 session and that the items should be considered in the same order as in 1995 (items 4, 5 and 3). The Subcommittee had also agreed that less time should be allocated at the current session for the consideration of item 3 than for items 4 and 5.

15. In the light of those remarks, and with a view to optimizing the efficiency of the Subcommittee's work, he suggested that, at the current session, it should adopt similar measures to those adopted in the past, namely the arrangements enumerated in subparagraphs (a) to (f) and (h) to (j) of paragraph 12 of the report on its previous session (A/AC.105/607 and Corr.1). With regard to the scheduling of informal consultations, the practice of cancelling afternoon meetings in advance in order to conduct informal consultations should

be discontinued as in 1995 and the time used for meetings of the working groups or the Subcommittee itself, on the understanding that working group meetings could be cancelled on an ad hoc basis if informal consultations were required. Informal meetings and consultations might take place outside the Subcommittee's work schedule and all informal meetings and consultations of the Subcommittee and its working groups held during the Subcommittee's work schedule should be provided with interpretation services.

16. He drew attention to the indicative three-week schedule of meetings set out in document A/AC.105/C.2/L.199. Although the Subcommittee had set a tentative goal at its previous session of concluding the current session in two weeks, he felt that it would be premature to take a decision on the matter immediately. However, in a spirit of flexibility, the Subcommittee might agree provisionally on a two-week schedule subject to review later in the session. With that in mind, he outlined a possible revised provisional schedule of work, starting with the customary general exchange of views and proceeding to the consideration of the substantive items on the Subcommittee's agenda, and ending with the adoption of the report by the end of the second week.

17. **Mr. LOUET** (France) said that the agenda did not provide for a general exchange of views at the present session.

18. **The CHAIRMAN** drew attention to paragraph 52 of the report of the Subcommittee on the work of its thirty-fourth session (A/AC.105/607 and Corr.1), in which the Subcommittee had recommended that the practice of allocating some time for a general exchange of views should continue.

19. **Mr. ARIZAGA** (Ecuador) agreed that the Subcommittee should have time for a general exchange of views. His delegation could accept the Chairman's suggestion concerning the length of the Subcommittee's session on condition that it did not constitute a precedent and that the Subcommittee should retain the possibility of holding a three-week session.

20. **The CHAIRMAN** said he took it that the Subcommittee approved the arrangements and tentative schedule he had described for the work of its present session.

21. *It was so decided.*

## GENERAL EXCHANGE OF VIEWS

22. **Mr. ARIZAGA** (Ecuador) said that the work of the Committee on the Peaceful Uses of Outer Space was of great importance to the international community. While welcoming the process of reform within the United Nations, he believed it was one which should proceed along the lines agreed by Member States and meet the common objectives of the international community. His delegation was therefore concerned at proposals to abolish the Committee and its subcommittees and for their work to be dealt with by another United Nations body. The Committee's success was due to its working methods, the participation of specialist representatives and the fact that it took decisions by consensus. His delegation disapproved of those suggestions and would be monitoring the situation very carefully. It hoped that the financial and staff cuts entailed by the reform would not adversely affect the Office for Outer Space Affairs, which had always done its work most efficiently.

23. His delegation agreed that, since there had been no substantial progress on the issue of nuclear power sources in outer space, the working group on that subject should not be convened at the present session. However, in view of the importance of the issue, his delegation appealed to all States to observe the

Principles Relevant to the Use of Nuclear Power Sources in Outer Space, an activity which should take place only as a last resort and should be monitored and controlled.

24. His delegation would address agenda item 4, concerning definition of outer space and utilization of the geostationary orbit, at a later stage. It had carefully considered the replies which the Secretariat had received to the questionnaire on possible legal issues with regard to aerospace objects (A/AC.105/635) and it looked forward to the Colombian delegation's presentation of its revised working document on the geostationary orbit. Because of growing pollution in outer space, and in the geostationary orbit in particular, his delegation welcomed the idea that the question of space debris should be placed on the Subcommittee's agenda.

25. It also welcomed the increasing interest shown by the members of the Subcommittee in agenda item 5, concerning outer space benefits. The benefits derived from exploring and utilizing outer space should be shared by all States, particularly the developing countries. All countries would gain from the positive effects which the applications of space science and technology would have on their economic and political development.

26. His delegation would give careful attention to any proposal for revising the Committee's methods of work if it sought to enhance progress, but not if it aimed at limiting substantive debate. The flexible approach had proved its worth at previous sessions and should be maintained. In conclusion, his delegation welcomed the inclusion of item 6, "Other matters", in the Subcommittee's agenda.

**MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION** (A/AC.105/607 and Corr.1, A/AC.105/635, A/AC.105/637; A/50/20)

27. **The CHAIRMAN** drew attention to the report of the Subcommittee on its thirty-fourth session (A/AC.105/607 and Corr.1), annex II to which contained the report of the Chairman of the Working Group on the relevant agenda item.

28. The work of the Legal Subcommittee on the definition of outer space and the geostationary orbit had been reviewed by its parent body, the Committee on the Peaceful Uses of Outer Space, at its last session (see document A/50/20, paras. 112-115 and 187(b)).

29. The replies received by the Secretariat to the questionnaire on possible legal issues with regard to aerospace objects were reproduced in document A/AC.105/635, to which an addendum would be issued shortly.

30. The question of the examination of the physical nature and technical attributes of the geostationary orbit had been considered by the Scientific and Technical Subcommittee at its session in February 1996 (see document A/AC.105/637, paras. 153-160).

31. Finally, in resolution 50/27, the General Assembly had recommended that at its present session the Legal Subcommittee, taking into account the concerns of all countries, particularly those of developing countries, should continue its consideration of the item through the relevant working group.

*The meeting rose at 11.10 a.m.*

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 590th MEETING

Held at the Vienna International Centre, Vienna,
on Tuesday, 19 March 1996, at 10 a.m.

**Chairman**: Mr. MIKULKA (Czech Republic)

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PARTICIPATION BY NON-MEMBER STATES *(continued)*

GENERAL EXCHANGE OF VIEWS *(continued)*

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION *(continued)*

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Distr.: 26 March 1996

*The meeting was called to order at 10.15 a.m.*

**PARTICIPATION BY NON-MEMBER STATES** *(continued)*

1. **The CHAIRMAN** said that Malaysia had applied to participate in the work of the Subcommittee. As the granting of observer status was a prerogative of the Committee on the Peaceful Uses of Outer Space, he suggested that the Subcommittee should not take a formal decision on the matter, but that, if there was no objection, the representative of Malaysia should attend the Subcommittee's formal meetings and, if he wished to make a statement, seek permission from the Chair.

2. *It was so decided.*

**GENERAL EXCHANGE OF VIEWS** *(continued)*

3. **Mr. FIUZA NETO** (Brazil) approved the decision to leave the consideration of agenda item 3, "Question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space", to the Scientific and Technical Subcommittee, with which that matter should remain pending new technological developments. The time thereby saved could be used to address the other substantive issues on the agenda or to deal with the Legal Subcommittee's working methods. The exchange of views at the Subcommittee's thirty-fourth session on agenda item 4, concerning definition of outer space and utilization of the geostationary orbit, had provided the basis for further work: the geostationary orbit was a limited natural resource and the Subcommittee's discussion of it should reflect that reality. His delegation hoped that the answers provided to the questionnaire on possible legal issues with regard to aerospace objects (A/AC.105/607, annex I, appendix) would generate progress in discussion of the issues raised by the Russian working paper on the subject (A/AC.105/C.2/L.189).

4. Although the question of space debris was being dealt with in the Scientific and Technical Subcommittee, the Legal Subcommittee should also be in a position to address the issue. An open-minded discussion could lead to the establishment of a parallel track for handling the matter, involving the two Subcommittees. Public awareness of the issue would grow and the Subcommittee should make progress on it in anticipation of that. With regard to agenda item 5, concerning outer space benefits, the informal working paper which had emerged at the previous session (A/AC.105/607, annex II, appendix) was virtually the sum of the earlier papers tabled by his own and other developing countries and by France and Germany (A/AC.105/C.2/L.182/Rev.2 and A/AC.105/C.2/L.197 respectively), and could constitute a useful starting-point for discussions at the current session. Delegations should demonstrate flexibility on the subject in order to achieve a consensus.

5. As to the Subcommittee's working methods, Brazil fully agreed with the measures adopted to guarantee effective utilization of United Nations services, and would support every effort to make the best possible use of the time allotted, but would oppose attempts to reduce the duration of the session without proper consideration of the substantive or organizational issues that were of concern to a significant number of the Subcommittee's members. Any decision to reduce the duration of the Subcommittee's work would have to be taken on an ad hoc basis. Some delegations had stated at its thirty-fourth session that the burden of justifying the inclusion of new items on its agenda should fall exclusively on the shoulders of those proposing them; Brazil, however, considered that it should be a joint effort, particularly because the information available on some topics was scarce. Alternatively, the Secretariat should be asked to investigate

some of the avenues that were open to the Subcommittee in regard to new items. Member States should be asked to coordinate their decisions on the subject with the Secretariat.

6. **Mr. SOKOLOV** (Russian Federation) said he hoped that the current session would give a new impetus to the question of delimitation of outer space. A notable move towards enhancing the criteria for dealing with the issue had been the questionnaire on aerospace systems. The Subcommittee should make every effort to secure progress in regard to the legal aspects of the operation of aerospace systems with a view to bringing together the opinions of individual States in a single comprehensive document as soon as possible. The Russian Federation advocated dialogue on the various aspects of the utilization of the geostationary orbit; the working paper submitted by Colombia on that subject (A/AC.105/C.2/L.200) raised a number of very important questions and its recommendations required careful consideration.

7. His delegation supported the view expressed by the Scientific and Technical Subcommittee at its thirty-third session that further expert consideration be given to the scientific and technical aspects of space debris. Noting with satisfaction the cooperation that existed between the Inter-Agency Space Debris Coordination Committee (IADC) and the Scientific and Technical Subcommittee, he said that the Legal Subcommittee should not embark upon consideration of the legal aspects of space debris before acquiring comprehensive data regarding its technical aspects. Moreover, his delegation agreed that at the present time the revision in the Subcommittee of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space was not warranted.

8. With regard to the legal aspects of the utilization of outer space for the benefit and in the interests of all States, taking into particular account the needs of developing countries, the document submitted at the previous session by the Chairman of the Working Group (A/AC.105/607, annex II, appendix) was a good example of the approach which the Subcommittee should adopt to the solution of problems. More work needed to be done on the document to ensure progress.

9. As far as the Subcommittee's working methods were concerned, his delegation welcomed the efforts of the Chairman and Secretariat to introduce the maximum amount of flexibility into the manner of consideration of agenda items. The search must continue to find new ways of solving problems in that area, bearing in mind that responsibility for the Subcommittee's effectiveness lay at least as much with delegations as with the Secretariat.

10. **Mr. SINGH** (India) said that the rapid development of space technology and its applications necessitated quicker progress on the legal aspects of preservation of the space environment and the equitable use of space resources, as well as on intellectual property rights relating to space applications and on the principles governing international cooperation and the principles for technology transfer.

11. Until a consensus was reached in the Subcommittee on the need for and the scope of revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, those principles should be observed and implemented by the international community. India considered that any revision of the Principles should aim at the better implementation of the agreed safety standards, and not at their dilution. States currently using nuclear power sources in outer space should inform the Committee on the Peaceful Uses of Outer Space and the United Nations of the action they were taking to comply with the Principles.

12. The definition and delimitation of outer space and the use of the geostationary orbit were subjects of fundamental importance upon which the Subcommittee had yet to make any substantial progress. It was

clearly necessary to define outer space and delineate it from airspace, as well as to clarify the scientific and technological aspects of aerospace objects.

13. The urgency for the Subcommittee to make substantial progress on the subject of outer space benefits could not be overemphasized. Several States, particularly the developing countries, encountered many obstacles in gaining access to outer space and taking full advantage of space technology for their socio-economic and cultural development. International measures to strengthen the implementation of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies should be encouraged further, together with international cooperation in the development in the States concerned of indigenous capacities for conducting peaceful activities in outer space that would meet their priority needs. In that spirit, India strongly supported various of the proposals before the Subcommittee on outer space benefits. It was also gratified that the General Assembly had endorsed the proposal to hold a third United Nations Conference on the Peaceful Uses of Outer Space before the turn of the century and it hoped that a detailed agenda for the conference would be settled soon.

14. His delegation shared the concern expressed by other States regarding the growing quantity of debris in outer space and the urgent need to continue studying the problem, as well as to develop suitable measures to protect space objects and humans in outer space from collision with space debris.

15. **Mr. TREMAYNE-SMITH** (United Kingdom) welcomed the decision not to reconvene the working group on nuclear power sources during the current year. The United Kingdom considered that the functional definition of space was acceptable and that the International Telecommunication Union was the appropriate body to cover the management of the geostationary orbit. His delegation did not believe there was a need for prescriptive measures or principles regarding space benefits, or that the Subcommittee should deal with the matter of space debris at present. The United Kingdom would support a move to keep the Subcommittee's records to a minimum consistent with the work in hand and it welcomed the idea that the duration of the present session should be two weeks. It had no suggestions for future subjects to be considered by the Subcommittee and at present saw no need to extend the scope or range of topics which the Subcommittee covered. It might nevertheless be appropriate to remove a subject from the current agenda from time to time and perhaps replace it with a more acceptable item.

16. **Dr. HUANG Huikang** (China) said that, since the development of space technology and the conduct of space activities could not be separated from the establishment of a sound legal space order, the elaboration of international space law must be accelerated. The present favourable international climate provided the Subcommittee with a good opportunity for doing that. China approved the decision taken by the Scientific and Technical Subcommittee at its thirty-third session that, at present, revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space was not warranted, as well as that body's decision that the subject should remain on its agenda.

17. The definition and delimitation of outer space was a complex political, security and technical matter calling for patient and thorough consultation. The replies to the useful questionnaire on legal issues related to aerospace objects should provide the basis upon which the Subcommittee would decide how to continue its deliberations. The geostationary orbit was a limited resource and ways should be explored of improving its present utilization through concerted action by all States. The legal regime governing the geostationary orbit should be based on the principles of equality, economy and efficiency, taking into account the interests of all countries, especially the developing countries, and it should be coordinated with the relevant procedures

of the International Telecommunication Union. It was the task of the Legal Subcommittee to prepare such a regime and China looked forward to further progress in that regard at the current session.

18. As to the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of developing countries, the working papers submitted at the Subcommittee's thirty-fourth session by Brazil and other developing countries (A/AC.105/C.2/L.182/Rev.2) and by France and Germany (A/AC.105/C.2/L.197) had demonstrated that the positions of the developed and developing countries were becoming closer. There was now a sound basis for further constructive consideration of the subject at the present session.

19. On the question of the Subcommittee's working methods, while China had no objection to the use of unedited transcripts for the meetings of the Committee itself, caution should be exercised about extending that practice to the Subcommittee. The duration of the Subcommittee's meetings should be considered in an integrated manner together with issues such as its present and future role and its efficiency.

20. His Government welcomed experts and officials from all countries to the thirty-ninth International Colloquium on the Law of Outer Space to be held at Beijing, China, in October 1996.

21. **Mrs. ÜNEL** (Turkey) said that her delegation agreed with the decision to suspend consideration of agenda item 3, relating to nuclear power sources. However, she felt that the question of review and possible revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space merited special attention, in view of the developments which had taken place under the auspices of the International Commission on Radiological Protection and the International Atomic Energy Agency, as well as the emergence of new factors such as the potential impact of space debris. Her delegation attached great importance to the protection of the space environment and welcomed the holding, during the present session, of the International Institute of Space Law (IISL)/European Centre for Space Law (ECSL) symposium on that subject.

22. With regard to the utilization of the geostationary orbit, she hoped that the document submitted by the delegation of Colombia (A/AC.105/C.2/L.200) would represent a solid basis for consensus. Closer collaboration was needed with the International Telecommunication Union (ITU) because of the conflicting views of delegations concerning its role in that respect. Consensus on the subject would be more readily achieved in the Subcommittee by submitting to ITU a list of questions concerning points on which unanimity was lacking.

23. Her delegation confirmed its approval of the arrangements made at the previous meeting for the work of the present session.

24. **Mr. KIM** (United States of America) said the Subcommittee could play a beneficial role in promoting international cooperation in outer space. It should not consider matters which would needlessly complicate efforts to improve that cooperation. It should adopt a systematic approach to its work, with a view to promoting progress, and avoid seeking to create new legal regimes for which there was no practical or legal need and which were bound to stir up controversy. The Subcommittee should clearly identify the need for any new pronouncements and should carefully assess the appropriateness of adding items to its agenda.

25. The question of space debris should not be handled by the Legal Subcommittee, nor should the Subcommittee develop new legal norms for space debris, in view of the many scientific and technical aspects

of that issue to be addressed in the Scientific and Technical Subcommittee. A third United Nations Conference on the Peaceful Uses of Outer Space was neither necessary nor appropriate, given the present climate of international cooperation and the financial stringency in the United Nations. There were alternative means of achieving the goals involved. In conclusion, he welcomed the efforts being made to improve the efficiency of the Subcommittee's procedures.

26. **Mr. HECKER** (Germany) said that his delegation had been constructively involved in the discussions at the previous session and that his Government had replied to the questionnaire on possible legal issues with regard to aerospace objects. Concerning agenda item 5, on outer space benefits, the delegations of France and Germany would be submitting a revised version of the working paper introduced the previous year as document A/AC.105/C.2/L.197. He hoped the new paper would enable further progress to be made on that subject.

27. **Ms. DIACONESCU** (Romania) welcomed the progress made in the Subcommittee on the definition and delimitation of outer space, including the utilization of the geostationary orbit. In her country's view, the geostationary orbit was a limited natural resource to which all countries, including those which did not yet have the capacity to launch satellites, should have access. The Subcommittee's consideration of ways and means to ensure the rational and equitable use of the geostationary orbit need not create problems for the International Telecommunication Union, although the latter had a certain responsibility for regulating its use, especially with regard to telecommunications. The work of the two bodies on that question should be regarded as complementary.

28. Delegations should thoroughly review the various documents submitted in connection with agenda item 5, relating to outer space benefits, in order to determine the best means of guaranteeing the equitable exploration and utilization of outer space, and should be prepared to enter into negotiations with a view to reaching a shared conclusion on the matter. It would be useful if the item could be considered on the basis of a single working paper, drafted on a continuing basis to reflect the interests and concerns of all States.

29. Since the protection of the space environment would undoubtedly be advanced through the work of the Scientific and Technical Subcommittee, the question of space debris merited inclusion on the agenda of the Legal Subcommittee. As to its working methods, her delegation would welcome consultations with a view to clarifying the problems involved and reducing the length of the present session.

30. **Ms. VENTURINI** (Italy) agreed that the length of the Subcommittee's sessions should be shortened — perhaps to even less than two weeks, in order to conform with the pattern of meetings of United Nations bodies in Vienna. The practice of holding a longer session should be resumed only if new substantive items were included on the agenda.

31. The Scientific and Technical Subcommittee had made very satisfactory progress at its thirty-third session, especially on the question of space debris. A number of States, including Italy, were organizing programmes relating to the acquisition and understanding of data on the space debris environment. Industry was showing increasing awareness of that issue, as evidenced by the IISL/ECSL symposium. Those trends suggested that the Legal Subcommittee might well have to deal with the question of space debris in the not too distant future.

32. **Mr. VELAZCO SAN JOSE** (Cuba) said that the economy measures instituted as a result of the deep-seated financial crisis in the United Nations were affecting without distinction Member States which paid

their contributions and those which did not or could not. Attempts were being made, as part of the reform process, to do away with the Committee on the Peaceful Uses of Outer Space and incorporate its field of activity into the work of other United Nations bodies. He hoped those attempts would not be successful and that financial stringency would not have any serious impact on the work of the Office for Outer Space Affairs. His delegation agreed in principle with the arrangements announced by the Chairman at the previous meeting for the work of the present session and it believed in the need for flexibility in the Subcommittee's procedures. However, acceptance of the need to make proper use of the time available at the present session should not prejudice the arrangements for future sessions of the Subcommittee.

33. His delegation approved the decision to leave item 3, concerning nuclear power sources, to be dealt with by the Scientific and Technical Subcommittee. Concerning item 4, definition and delimitation of outer space, a productive exchange of views had taken place at the Subcommittee's previous session. His delegation took the view that the geostationary orbit should be regarded as a limited natural resource. As a sponsor of the proposal in document A/AC.105/C.2/L.182/Rev.2, his delegation endorsed the statement made by the representative of Brazil.

34. **Mr. KOVACS** (International Telecommunication Union) introducing the thirty-fifth report of the International Telecommunication Union (ITU) on telecommunication and the peaceful uses of outer space (A/AC.105/634), said that the past year had been extremely challenging, with an upsurge in interest in space-related communications, continuing technological developments, a changing administrative and financial environment and a growing demand for spectrum and orbit utilization.

35. Turning first to international regulation of the use of orbit/spectrum resources, he said that the regulatory basis was to be found in ITU's amended Constitution and Convention, which had entered into force on 1 January 1996. Article 44 of the amended Constitution stipulated that in using frequency bands for radio services, member administrations should bear in mind that radio frequencies and the geostationary-satellite orbit were limited natural resources which must be used rationally, efficiently and economically, so that countries or groups of countries could have equitable access to both, taking account of the special needs of the developing countries and the geographical situation of particular countries. The Radio Regulations, a binding international treaty setting out the procedures for all radio communication services, contained further detailed regulations and procedures governing orbit/spectrum use. The principles of efficient use of the orbit and equitable access to it had been a major concern of ITU's member administrations. Recent rapid developments in telecommunication services had brought an increasing demand for spectrum/orbit usage, raising the possibility of substantial changes in allocation practices, due among other things to technological progress and the increasing use of space techniques in radio communications and to political, social and structural changes and the resulting liberalization of telecommunication services.

36. Because of those developments, the Plenipotentiary Conference of ITU (Kyoto, 1994), in resolution 18, had called for an in-depth review of spectrum/orbit resource allocation procedures. The aims of the review were, among others, to ensure equitable access to resources, match coordination procedures to the needs of member administrations and ensure linkage between those procedures and commitments to take up networks. As part of the review, issues under study by ITU included the reservation of orbit capacity without actual use, which contributed to congestion; the uncoordinated use of spectrum and orbital resources for satellite launching and repositioning; the lack of adequate mechanisms for dispute resolution in a situation in which complex satellite systems proliferated in an almost continuous series of inter-system coordination; the efficient use of orbit and spectrum resources where conflicts emerged in particularly valuable orbital segments in which spectrum utilization could be enhanced by applying advanced technologies; and finally

the problem of equitable access to orbit and spectrum resources. The spectrum covered by existing orbit position plans was largely unused, owing to technical and administrative constraints. During 1996 ITU's various bodies would seek solutions to all those problems and its final report would be submitted to the 1997 World Radiocommunication Conference.

37. After outlining the main aspects of the work of the 1995 World Radiocommunication Conference, he said that the 1997 Conference would undertake a revision of the Broadcasting-Satellite Service Plan, review activities under resolution 18 of the Plenipotentiary Conference (Kyoto, 1994) and deal with such items as the implementation of the Global Maritime Distress and Safety System (GMDSS) and frequency allocation issues for space services, in particular the Earth exploration-satellite service.

38. A new type of ITU gathering, the World Telecommunication Policy Forum, would meet during the four-year period between Plenipotentiary Conferences to exchange views and information on broad telecommunication policy issues, technological advances, service options and opportunities, infrastructure development and financial and business considerations.

39. The second World Telecommunication Development Conference would be held in Malta in 1998. ITU had been instrumental in the establishment of the World Telecommunication Organization (WorldTel), a cooperative body financed by private investors from industrialized countries which assisted developing countries in providing access to telecommunication facilities for a large segment of their population through the introduction of cost-effective technologies and the creation of a liberal economic environment.

40. The ITU report also contained information on new satellite projects submitted to the Union under the international regulations, as well as lists of geostationary and non-geostationary space stations in different stages of the coordination procedure, and information on the status of ITU telecommunication studies and standards and on the technical cooperation activities of the Telecommunication Development Bureau.

**MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION** (*continued*) (A/AC.105/607 and Corr.1, A/AC.105/635, A/AC.105/637; A/50/20)

41. **Mr. REY CORDOBA** (Colombia) introduced a working paper (A/AC.105/C.2/L.200) submitted by his delegation with regard to the utilization of the geostationary-satellite orbit. The document adopted a different approach from that reflected in his delegation's previous paper on the subject (A/AC.105/C.2/L.192), submitted in 1993, and took account of the views expressed on the subject by the relevant Working Group, the Subcommittee itself and the Committee on the Peaceful Uses of Outer Space. In view of the status of the International Telecommunication Union (ITU) as an important authority for the Subcommittee on the item under discussion, he was gratified to note that its thirty-fifth report on telecommunication and the peaceful uses of outer space (A/AC.105/634) adopted a similar position to that contained in his delegation's new working paper. The paper was not structured along the lines of a document for submission to the United Nations General Assembly. It was simply meant as a basis for discussion in the Subcommittee and the Working Group, and perhaps as a stimulus to other delegations to present ideas of their own. It omitted statements of what appeared to be self-evident principles and sought to avoid unnecessary arguments

regarding, for example, the definition of the geostationary orbit. That approach was reflected in its unpretentious title: "Some considerations concerning the utilization of the geostationary-satellite orbit".

42. Section I of the paper quoted various paragraphs of General Assembly resolution 50/27 which demonstrated irrefutably the competence of the Committee on the Peaceful Uses of Outer Space and its subcommittees to discuss the subject of the geostationary-satellite orbit without prejudice to ITU's role in the matter. The resolution placed emphasis on the rational and equitable use of the orbit and the need to pay special attention to the concerns of the developing countries, and made a favourable reference to deliberations which had taken place in the Subcommittee on the basis of recent proposals, namely those contained in his delegation's previous working paper and referred to in the report of the Committee on the Peaceful Uses of Outer Space on its thirty-eighth session (A/50/20, para. 118).

43. His delegation considered that any draft text prepared by the Subcommittee on the utilization of the geostationary orbit should mention chapter VII, article 44, No. 196, paragraph 2, of the Constitution of ITU, which indicated that the geostationary-satellite orbit was a limited natural resource and must be used rationally, efficiently and economically, and that countries or groups of countries must have equitable access to it, taking into account the special needs of the developing countries and the geographical situation of particular countries. Any such text should also refer to the guidelines established by ITU through the Radio Regulations. In that connection the planned frequency bands and services for which countries had been allotted orbital positions at various ITU conferences should not be affected by any new regulations.

44. More precise criteria were needed with respect to the many still unplanned frequency bands and services, with regard to which access to orbital positions was at present provided on a "first come, first served" basis. That procedure was unfair when it involved the possibility of access to a specific orbital position at the same time and with the use of the same frequencies by a developing country and a developed country, or by a country that as yet had no access to the orbit as against one which had. Coordination procedures existed to resolve such problems, but they could impose costly operational limitations that were to the detriment of developing countries. A further complication arose from the uncoordinated use of spectrum and orbit resources by satellites launched or repositioned before the coordination process was properly concluded. His delegation believed that the principles set out in chapter VII of the ITU Constitution should be applied to the frequency bands and services not yet planned by ITU, and that any relevant regulations should simplify the coordination process by promoting registration of the satellites of developing countries, or of countries that had not yet had access to the orbit in preference to those already using it. Moreover, any text prepared by the Subcommittee should include a provision on space debris which interfered with the effective use of the orbit.

45. His delegation therefore proposed that the Subcommittee should recommend the observance of the following principles for the utilization of the geostationary orbit. First, in any coordination process necessitated by radio-electronic interference in respect of bands and services using geostationary satellites and not planned by ITU, the countries involved should take into account the fact that access to the geostationary orbit must be equitable, and consequently that when a developed and a developing country had equal claims to access to the same or neighbouring orbital positions, or when a country that already had access and a country that had not yet had access had equal claims, the developed country or the country which already had access should give the other country every possibility of acceding to the desired orbital position and frequency with the minimum possible operational restrictions. Second, the claim of countries to use

frequencies and occupy geostationary orbital positions in such cases should be exercised as set forth in the ITU Radio Regulations and, in any event, account should be taken of the provisions of resolution 18 of the Plenipotentiary Conference of ITU (Kyoto, 1994). Third, the satellite "launching State", as defined in the Convention on Registration of Objects Launched into Outer space and the Convention on International Liability for Damage Caused by Space Objects, should use its best endeavours to remove space debris and spent satellites from the geostationary satellite orbit to disposal orbits shortly before the end of the useful life of a satellite in order to ensure effective and economical use of the orbit.

*The meeting rose at 12.40 p.m.*

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 591st MEETING

Held at the Vienna International Centre, Vienna,
on Wednesday, 20 March 1996, at 10 a.m.

**Chairman**: Mr. MIKULKA (Czech Republic)

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MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION *(continued)*

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*The meeting was called to order at 10.15 a.m.*

**GENERAL EXCHANGE OF VIEWS** *(continued)*

1. **Mr. SURYOKUSUMO** (Indonesia) said that his delegation had no objection to the fact that the working group on agenda item 3, relating to nuclear power sources, would not be reconvened at the present session. It agreed in principle to the shortening of the current session to two weeks unless the Subcommittee decided otherwise in the light of the inclusion of new substantive items in its agenda.

2. With respect to the possibility of convening a third United Nations Conference on the Exploration and Peaceful Uses of Outer Space (UNISPACE III) before the turn of the century, he reminded the Subcommittee that his delegation's proposal that such a conference should be convened in 1998 had received support at the thirty-third session of the Scientific and Technical Subcommittee. Indonesia believed that UNISPACE III, as well as considering the political and technical aspects of the advancement and application of space science and technology, including international cooperation, might examine certain legal aspects of outer space activities, through a review of the status of outer space law and the need for its further progressive development and codification. The conference might find ways of promoting wider adherence to existing international space treaties, including links between outer space law and other branches of international law such as environmental law. His delegation hoped that the work of the Legal Subcommittee at its present session would help towards that of UNISPACE III.

3. At its previous session, in dealing with the subject of outer space benefits, the Legal Subcommittee had thoroughly discussed two working papers (A/AC.105/C.2/L.182/Rev.2 and A/AC.105/C.2/L.197). The informal working paper prepared by the chairman of the relevant working group as a result of that discussion (A/AC.105/607, annex II, appendix) constituted, in his delegation's view, a suitable basis for the future discussion of the subject. The paper might well accommodate the interests of all States in ensuring cooperation in both the application and the development of outer space technology.

4. His delegation commended the questionnaire on aerospace objects (A/AC.105/607, annex I, appendix) for its usefulness and suggested that the Subcommittee should allow States that had not yet replied to the questionnaire the opportunity to do so in time for its next session.

5. **Mr. AZUMA** (Japan) recalled that the Subcommittee had been requested by the General Assembly, in resolution 50/27, to review its requirement for summary records and see whether it might be possible to utilize unedited transcripts at subsequent sessions. His delegation took the view that the cost of such records should be kept to the minimum, bearing in mind present financial constraints and the efficiency review being conducted by the Secretariat.

6. His delegation welcomed the rescheduling of the current session in accordance with the recommendations on working methods made at the previous session and it hoped that consideration would be given to other possibilities for improving the efficiency of the Subcommittee's work.

7. **Miss OTMANI** (Morocco) considered it useful that the Subcommittee was again having a general exchange of views. In connection with agenda item 4, definition and delimitation of outer space, she welcomed the step which had been taken of circulating a questionnaire on possible legal issues with respect to aerospace objects. The replies so far received and the relevant working group's discussions on the subject

had already resulted in modest progress, but in her view replies from the major space Powers were needed before any real step forward was possible.

8. The new Colombian working paper on the utilization of the geostationary satellite orbit (A/AC.105/C.2/L.200 and Corr.1) was a very constructive contribution to the Subcommittee's work and, together with the report of the International Telecommunication Union (A/AC.105/634), should enable it to make good progress in examining the issue. Her delegation was among those which believed that the geostationary orbit, as a limited natural resource, must be used equitably, with account being taken of the present and future needs of the developing countries. The application of the principle of exploring and utilizing outer space for the benefit and in the interests of all States was one of the Subcommittee's major concerns. Access to space technology was beneficial to all countries, particularly the developing ones, but in their case it was hampered by lack of funds. A flexible general legal framework, adaptable to the circumstances of different countries, was therefore needed for international cooperation in the peaceful uses of outer space. The holding of a third United Nations Conference on the Exploration and Peaceful Uses of Outer Space would be a major step in promoting such cooperation and had her delegation's strong support.

9. At its previous session the Subcommittee had considered two texts on outer space benefits (A/AC.105/C.2/L.182/Rev.2 and A/AC.105/C.2/L.197) setting forth divergent viewpoints. Many delegations, including her own, had called for a single document consolidating the points they had in common and providing a basis of discussion for the relevant working group at the current session.

10. With regard to working methods, she considered it reasonable to shorten the Subcommittee's session generally to two weeks instead of three, without prejudice to the possibility of thorough discussion of the items on its agenda.

11. **Mr. TRAUTTMANSDORFF** (Austria) said his delegation had accepted the reduction of the length of the Subcommittee's current session from three weeks to two on the understanding that the time available would be used in the best possible manner, and also in view of the need to improve the cost-effectiveness of meetings at a time when the United Nations was suffering a very serious financial crisis. However, steps of that kind should not divert attention from the importance of international encounters of global concern on subjects such as space law. Regrettably, the progressive development and codification of international law had reached stalemate. That situation had to be overcome. All too often the subjects discussed were too broad, leading some delegations to adopt general positions that reflected national interests and preventing others from taking a clear stance because they did not wish to prejudice their position on a subject whose scope could not be fully assessed. The dilemma was exemplified by the Subcommittee's unending debate on item 4, concerning the delimitation of outer space — a debate which was unlikely to result in codification in the near future on the basis of the rather general questionnaire which had been circulated.

12. That led him to suggest that the Working Group on Delimitation might usefully redefine its aims. Few delegations considered it wise to seek a general dividing-line between outer space and airspace and between space objects and other flight objects. Many believed in the need for a more functional approach that concentrated on defining the limits of the applicability of aerospace law and aviation law to space objects, which might simply be defined as objects that left and partially re-entered airspace.

13. The substantive capabilities of the Secretariat might be employed to suggest ways in which the Subcommittee could sharpen the focus of its work with a view to producing legal texts for submission in the very near future to its parent body, and thus to the General Assembly. The Secretariat might also be asked

to help bring the rich experience of space agencies, scientific organizations and other governmental and non-governmental organizations to bear on the Subcommittee's work.

14. Higher priority must be accorded to making legal solutions to space problems acceptable to the key players involved, without which international instruments on space law would be useless. Accordingly, the issues considered in the Subcommittee should be limited in scope and easily recognizable. His delegation would make proposals in that connection in the Subcommittee's working groups. It was important, in a period of extreme austerity, to avoid the criticism that the Subcommittee was wasting time by discussing how to go about its work. All the same, a debate on restructuring agenda item 4, on delimitation, and agenda item 5, on outer space benefits, in order to increase the Subcommittee's effectiveness might well prove useful.

15. **Mr. FASAN** (International Astronautical Federation) explained that the Federation was a non-governmental association of national bodies concerned with space activities, comprising 123 member organizations in 39 countries. Its aims were to foster the development of astronautics for peaceful purposes, promote the dissemination of technical information, stimulate public interest in space flight and encourage astronomical research. Its forty-seventh Congress, on the theme "Enlarging the scope of space applications", would be held in October 1996 in Beijing. During the Congress the Federation, in conjunction with the United Nations, would hold a workshop for participants from developing countries focusing on space technology and applications in the developing world.

16. The Federation cooperated closely with the Committee on the Peaceful Uses of Outer Space and its subsidiary bodies. Its annual publication *Highlights in Space*, prepared for the Committee, described progress in space science and research and contained a section on progress in international cooperation and space law which would be of particular interest to the Subcommittee. The Federation also organized symposia on the occasion of the sessions of the Scientific and Technical Subcommittee.

17. In order to promote the study and development of space law the Federation, in 1960, had founded the International Institute of Space Law (IISL), which maintained close ties with the Legal Subcommittee. The work of the latter, its parent Committee and the Scientific and Technical Committee had made it possible to integrate space science and technology into the legal aspects of humanity's space activities. The work of those bodies in building on the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies and in elaborating other legal instruments and principles, had made space law an important branch of general international law.

18. Each year IISL organized a symposium on a particular aspect of space law to coincide with the session of the Legal Subcommittee. The 1996 Symposium, on protection of the space environment, had been held in cooperation with the European Centre for Space Law. The Institute had over 400 individual members from 42 countries. In 1996 its annual colloquium on the law of outer space would take place in Beijing and deal with the legal status of property rights on the moon and other celestial bodies, cases and methods of dispute settlement in space law, legal aspects of sharing benefits from the conduct of space activities, and other legal subjects related to the peaceful uses of outer space.

**MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION** (*continued*) (A/AC.105/607 and Corr.1, A/AC.105/635, A/AC.105/637; A/50/20)

19. **Mr. ZVEDRE** (Russian Federation) said that the questionnaire on possible legal issues with regard to aerospace objects (A/AC.105/607, annex I, appendix) would enable a new approach to be taken to the matter of delimitation and possible solutions to be considered. Although at present there were not enough replies for any conclusions to be reached, it was to be hoped that by the thirty-sixth session of the Subcommittee the majority of States would have submitted replies.

20. The development of space technology required solutions to a number of interconnected questions relating to the applicability of international air law and international space law. It had to be decided which of the two regimes should apply to new means of transport, such as aerospace objects, whether they could realistically be covered by additional legal norms, and whether they required special regulations. In operating aerospace objects there were two key problems: defining their international legal status and regulating their flights in the various spaces through which they passed. It was not really possible to develop a special legal status applicable to all the objects and systems concerned, because of their great dissimilarities; it was more realistic to choose a legal status based on certain aspects, such as the capability of the aerospace object to travel through outer space and to remain in airspace for a certain period of time, and the technical design and nature of the object or system, for example whether it was single- or multi-staged, piloted or unpiloted, and launched vertically or horizontally. The first generation of aerospace objects, undertaking "shuttle" activities between Earth and orbit and achieving velocities of the first cosmic level, were categorized as space objects and deemed to be subject to space law. The question then arose whether other types of aerospace objects, operating on an Earth-to-Earth mission and at velocities lower than the first cosmic level, chiefly in the atmosphere, should be categorized as aircraft and subject to air law. The use of functional criteria of that kind was an acceptable way of proceeding, but conclusions on the subject would be possible only after careful legal analysis and after dealing with such matters as the flight of objects through the airspace of foreign States and responsibility for damage. There was much less clarity in regard to multipurpose systems comprising various components, such as an aerospace object carried by an aircraft.

21. The status of aerospace objects on Earth-to-orbit missions could be determined by reference to the regime of their flight at various stages of their trajectories; when in space they had to be categorized as space objects and were subject to international and national space law, but international space law was applicable to space objects both in space and in other environments. It was necessary to decide whether an aerospace object was to be categorized as a space object when it was in airspace on its way to its orbit or on its return from space. Aerospace objects returning from space were able, more or less freely, to travel in airspace and land horizontally like ordinary aircraft; because of that characteristic it was impossible to draw a complete analogy between their return to Earth and that of an ordinary space object. With classic space objects, States raised no objections to their innocent flight through their airspace, but their attitudes to the flights of foreign aerospace objects through their airspace in the future, and particularly if they landed on their territory without prior approval, might be quite different. Special agreement on such issues might be needed between the interested States.

22. In the event of damage resulting from collisions between aerospace objects and ordinary aircraft, it would seem logical to apply the norms of international space law to the responsibility of the launching State because that would serve as an additional stimulus for States and operating bodies to guarantee strict safety precautions.

23. The idea should not be ruled out that two separate legal regimes might apply to aerospace systems at two different points in their flight. From the launch to the second stage, the system could be regarded as an aircraft, and a State would have to seek prior permission before its aerospace object was able to undertake an innocent flight through the airspace of another country; in fact, the system would be subject to all the requirements of air law. After separation, the carrier aircraft would remain subject to air law, while the aerospace object and crew would enter the jurisdiction of space law for all subsequent stages of the flight until the moment of landing. Special agreements might be needed on that subject in the future, particularly in cases where aerospace objects were launched from airspace. The concept of the launching State had to be given further consideration in light of possible future launching means: a State authorizing the launch of a foreign object from its own airspace was automatically regarded as one of the launching States, with corresponding international obligations, and the question arose whether a State from whose airspace a foreign aerospace object was launched could demand compensation under the Liability Convention in the event of damage.

24. In the case of Earth-to-orbit objects flying through the airspace of foreign States, the two principles of freedom to utilize space and sovereignty of States over their own airspace had to be reconciled. The key question was whether, applying the principle of free utilization of space, the consequence was the principle of free access to space; in other words, to what extent could States using aerospace objects of the Earth-to-orbit type engage in unhindered flight through the airspace of other States? An analogy might be thought to exist between access of aerospace objects to space and access of vessels to the open sea through the territorial waters of sovereign States, but the question arose whether such through-flight should become a norm of international law or the subject of bilateral or regional agreements. Determination of the law regarding innocent through-flights would not do away with the need to settle the situation regarding the delimitation of space, since it was not clear to what altitude the regime governing innocent through-flight should extend. A further problem was to ensure the security of the flights of air transport and aerospace objects; that might entail developing an entire set of regulations covering the requirements both of aviation and of cosmonautics.

25. **Mr. ARIZAGA** (Ecuador) said that his Government's position was clear: it favoured a delimitation of airspace and outer space and the creation of a *sui generis* legal regime for the geostationary orbit. He welcomed the new working paper on the latter subject submitted by Colombia (A/AC.105/C.2/200 and Corr.1). The working paper and the replies to the questionnaire on possible legal issues with regard to aerospace objects (A/AC.105/635) would give a valuable impetus to the Subcommittee's discussions and should enable progress to be made. Outer space had to be delimited not only because of practical considerations but also because of the increasingly widely shared *opinio juris generalis* which legal doctrine recognized. His delegation was studying the questionnaire and hoped to be able to provide a detailed reply.

26. The concern which his country felt at the increase in space debris, especially in the geostationary orbit, was shared by a growing number of countries. Since space debris affected space navigation, telecommunications, future access and the security of States, it was a problem of particular importance, and one which the Subcommittee should examine at its thirty-sixth session. Particular aspects for consideration were the transfer of satellites to disposal orbits before the end of their useful life and the legal status and ownership of objects abandoned in space. Space law provided no specific norms to cover such a situation.

27. It was for the Legal Subcommittee to deal with all the legal and political aspects relating to the geostationary orbit, not the International Telecommunication Union, whose sphere of activity was limited to specific technical aspects. For geographical reasons Ecuador had demonstrated great interest in the geostationary orbit, which was a limited natural resource with special characteristics, and for which there should be a *sui generis* legal regime regulating access to and utilization of the orbit and guaranteeing equitable access to it, with account being taken of the relative disadvantages of the developing countries.

28. **Ms. VENTURINI** (Italy) said that no definition or delimitation of outer space currently existed in international customary law or could be expected to emerge. Although her own Government had replied to the questionnaire on the legal regime of aerospace objects, there were not yet enough replies for a productive debate on the subject. She therefore suggested that discussion of it be postponed until the next session, when the Subcommittee should be in a position to decide whether the questionnaire deserved further consideration. She commended the working paper submitted by Colombia (A/AC.105/C.2/L.200 and Corr.1) but she was still not convinced that there was a need for special principles concerning access to and use of the geostationary orbit. The International Telecommunication Union was dealing successfully with such matters, if further or new regulations were needed, they might be deemed to fall within the competence of the World Trade Organization, whose general agreements on trade in services incorporated an annex on telecommunications which applied to satellite services. Since access to and use of the geostationary orbit were matters that required a broad approach, the Subcommittee's involvement with it should not go beyond legal research and the dissemination of information.

29. **Mr. Ho-Jin LEE** (Republic of Korea) said that during the cold war period, the Committee on the Peaceful Uses of Outer space had prepared five international legal instruments and four sets of principles concerning outer space, but it was now stagnating. Yet there were urgent issues to address, such as the rapidly increasing need for space uses, the growing clamour for space benefits and the widening gap between advanced and developing countries with regard to space technology. The commercialism which pervaded space use militated against the orderly management of outer space activities under international auspices. The Committee should therefore play a much more active role in defining the principles at issue, at least in respect of the geostationary satellite orbit and space debris.

30. The question of the definition and delimitation of outer space had been on the Subcommittee's agenda for 30 years without any conclusion being reached. Outer space was universally regarded as the common heritage of mankind and its definition and delimitation would help to achieve the orderly management and rational utilization of that asset. His delegation strongly supported the initiative of the Russian Federation in obtaining the views of States on certain legal issues pertaining to aerospace objects by means of a questionnaire, the replies to which could provide a useful basis for the process of definition and delimitation. He urged States which had not yet replied to the questionnaire to do so as quickly as possible and he requested the Secretariat to provide a report analysing the replies. The definition and delimitation of outer space should be recognized as a practical problem which, with the advent of new aerospace systems, called for a new legal regime. For national security reasons the outer limit of sovereign airspace must be defined. An acceptable formula for that should be achievable given active cooperation from States with space exploration capabilities.

31. The geostationary orbit was a limited natural resource, and in the era of the information superhighway it had become much more valuable. It was time for the Subcommittee to adopt principles governing its use. At the recent session of the Scientific and Technical Subcommittee concern had been expressed that the orbit would soon become saturated through the growing number of satellites being launched on a competitive basis,

thus preventing non-discriminatory access. The working paper on that subject submitted by the delegation of Colombia (A/AC.105/C.2/L.200 and Corr.1) was a useful basis for discussion of the rational and equitable use of the orbit. He suggested that it should be formulated as a draft resolution, for ultimate adoption by the General Assembly, entitled "Draft principles governing the rational and equitable use of the geostationary orbit" and arranged in the same way as the existing four sets of outer space principles adopted by the General Assembly. In addition to dealing with matters such as purpose, application and criteria, the principles might specify that they should be applied by all bodies in the United Nations system, including the International Telecommunication Union, and they might set out provisions for dispute settlement.

32. The principles governing the geostationary orbit might be codified through joint work by the Legal Subcommittee and the International Law Commission, drawing on the negotiation process followed by the United Nations Conference on the Law of the Sea. As to the view that the Legal Subcommittee had no mandate to develop a legal regime for the orbit, the Committee on the Peaceful Uses of Other Space had been established by the General Assembly as a focal point for international political and legal discussions on outer space issues. The Committee, and especially its Legal Subcommittee, should pursue the task of codifying the rules of law governing outer space.

33. **Mr. KIM** (United States of America) said his delegation was still unconvinced that developing an artificial or arbitrary delineation of outer space would be a useful contribution to international law at the present time. No practical or legal problem had arisen from the want of a delimitation. The main legal issues which might arise from the exploration and use of outer space seemed capable of solution without resolving the question of delimitation. Moreover, there appeared to be no firm basis in science and technology for addressing the matter. In 1967, the Scientific and Technical Subcommittee had concluded that it was impossible to identify scientific or technical criteria permitting a precise definition or demarcation of outer space. That was still the case, particularly since technological progress had increased the height at which aircraft could sustain flight and had reduced the minimum altitude for orbital flight. He disagreed with the view of some States that State sovereignty could be safeguarded only through a definition or delimitation of outer space; space activities now in progress did not infringe the principles of State sovereignty and of outer space law. Efforts to establish positive legal norms should be pursued exclusively in the context of specific problems and with full consideration of the scientific, technical, legal and other circumstances involved. To attempt a demarcation would stir up unnecessary difficulty. He therefore urged the Subcommittee to reconsider the inclusion of the topic on its agenda.

34. With respect to the geostationary orbit, his delegation took the view that the orbit was in outer space and that its use was therefore governed by the provisions of the Outer Space Treaty. Claims of sovereignty over the geostationary orbit were misplaced; the repeated use of an orbital position in the geostationary orbit did not mean that a State had appropriated that position or was claiming sovereignty over it. However, his Government shared the concern that all States should have equitable access to the geostationary orbit, especially in the area of telecommunications. International management of the geostationary orbit was looked after by the International Telecommunication Union, which dealt with detailed questions relating to equitable access to the frequencies and services available in the orbit. It was therefore unnecessary for the Subcommittee to play a part in that activity.

35. His delegation continued to have doubts about the objectives of the questionnaire on possible legal issues with regard to aerospace objects (A/AC.105/607, annex I, appendix), especially where the questions related to the application of aviation law to space vehicles and the existence of customary international law governing passage of a space vehicle through airspace upon re-entry into the Earth's atmosphere. There was

no practical need for new legal rules concerning space vehicles at present, and work on such a regime would raise more problems than it might solve. No incidents concerning space objects had arisen to require the Subcommittee's attention. The question of space objects, including the space shuttle, was governed by the 1967 Outer Space Treaty. Moreover, a number of space vehicles were still in the development stage, and any legal standards that were framed to apply to them should be developed in a specific context. Consensus would be difficult to achieve on the question of rights of passage through airspace and prior notification of States with regard to such passage, and those issues would inevitably be addressed in elaborating any legal regime on aerospace objects.

36. **Mr. VAUNGVIVAT** (Observer for Thailand) said that for the most part the new working paper submitted by the delegation of Colombia (A/AC.105/C.2/L.200 and Corr.1) was acceptable to his delegation. There was general agreement on the principle, expressed in article 44 of the Constitution of the International Telecommunication Union (ITU), that the geostationary orbit was a limited natural resource which must be used rationally, efficiently and economically. Section III of the working paper reflected the fact that increasing demand had led to competition for access to a specific orbital position by more than one country at the same time and with the use of the same frequencies. The paper drew a distinction between access to planned and to unplanned bands and services. Access to the latter was governed by the principle of "first come, first served", which was vague and prone to misinterpretation: States with major space capacities tended to believe that where claims overlapped, the State which launched its satellite first had priority. That was not the meaning of the principle. The mandate of the Subcommittee, according to General Assembly resolution 50/27, was to find ways and means of ensuring the rational and equitable use of the geostationary orbit without prejudice to the role of ITU. The rules governing overlapping claims by conflicting parties were not necessarily those of ITU; there were weak points in ITU's coordination procedures, notably the lack of compulsory dispute settlement arrangements. To avoid misinterpretation, the "first come, first served" principle should be spelt out, with account being taken of equitable principles, the geographical situation of the equatorial nations and optimization of the benefits derived from the use of the geostationary orbit, so as to guarantee equal access to space by all nations.

37. **Mr. FIUZA NETO** (Brazil) congratulated the delegation of Colombia on its new working paper, which offered a fresh basis for work on the definition and delimitation of outer space. Recent progress on the question had been rather slow, in spite of the gains achieved in previous years.

38. **Mr. HUANG Huikang** (China) said that the new working paper represented a substantial modification of the Colombian delegation's earlier document (A/AC.105/C.2/L.192) and reflected the concerns expressed by various delegations, including his own. In formulating it the delegation of Colombia had demonstrated a spirit of cooperation and comprehension which augured well for a final solution to the problem of the geostationary orbit. The paper should serve as a basis for the Subcommittee's endeavours to achieve that solution.

*The meeting rose at 12.05 p.m.*

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 592nd MEETING

Held at the Vienna International Centre, Vienna,
on Thursday, 21 March 1996, at 10 a.m.

**Chairman**: Mr. MIKULKA (Czech Republic)

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GENERAL EXCHANGE OF VIEWS *(continued)*

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION *(continued)*

QUESTION OF REVIEW AND POSSIBLE REVISION OF THE PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE

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*The meeting was called to order at 10.25 a.m.*

**GENERAL EXCHANGE OF VIEWS** (*continued*)

1. **Mr. BEGLEY** (Ukraine) stressed the importance of the items on the agenda of the current session, particularly for States that were taking the first steps towards reflecting the precepts and principles of international space law in their domestic legislation. In view of the growing tendency for space technology to be used for the socio-economic development of all peoples, there was an obvious need to extend the list of subjects dealt with by the Subcommittee to topics such as the defence and conservation of outer space for the benefit of mankind; commercial activities in outer space; and practical difficulties involved in broadening the framework of international cooperation, especially in new areas of space activity.

2. He agreed with other delegations on the need to enhance the effectiveness of the Subcommittee's work and to ensure that practical decisions were taken on specific questions. His delegation had suggested at the previous session of the Committee on the Peaceful Uses of Outer Space that the special equipment at his country's outer space telecommunication centre should be used for the organization of a regional United Nations centre. He urged the members of the Subcommittee to study the background material on a possible programme of work at the centre that had been sent to interested organizations in Member States.

3. **Mr. GWARY** (Nigeria) reiterated his delegation's firm belief that outer space, including the geostationary-satellite orbit, was a common heritage whose exploration and use should be regulated in a rational and equitable manner. The definition and delimitation of outer space was necessary for practical and legal reasons, since a clear distinction was needed in both respects between airspace and outer space.

4. With regard to the new working paper submitted by Colombia (A/AC.105/C.2/L.200 and Corr.1), he agreed that the geostationary-satellite orbit was a limited resource that must be used rationally, efficiently, economically and equitably, taking into account the special needs of developing countries, which should enjoy preferential rights of access to suitable orbital positions and frequencies. He advocated cooperation with the International Telecommunication Union (ITU) in developing legal principles for the orbit based on equity, access and efficiency, which were requirements of positive law already enshrined in the ITU treaties regulating the use of the orbit. Since space debris impeded the effective and rational use of the orbit, a legal regime was required to define and control such debris and to determine a State's liability for any damage it caused.

5. Although the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, had laid the basis for spreading the benefits of outer space exploration to all countries, irrespective of their level of technological development, only a negligible number of States had enjoyed such benefits to date. More vigorous action was necessary to develop a legal framework that would ensure the widest possible access to space resources and technology. His delegation would support the consideration of an appropriate framework for the rapid and efficient redistribution to the disadvantaged developing countries of the spin-off benefits of space science and technology. Efforts in that regard should not be construed as an attempt to impose undue obligations on any Member State but rather as a recognition of the interdependence of two different categories of State.

**MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION** (*continued*) (A/AC.105/607 and Corr.1, A/AC.105/635, A/AC.105/637; A/50/20)

6. **Mr. ZOUBAREV** (Russian Federation) said that the rational use of the geostationary-satellite orbit was a serious and long-term problem on which the Subcommittee had rightly focused its attention. The International Telecommunication Union (ITU) played a relatively effective role in regulating the use of frequencies and orbits at the international level, adopting a balanced and comprehensive approach to the task that had, on the whole, proved successful in guaranteeing access to the orbit and the spectrum. However, a more inventive approach was needed if the lengthy debate on the legal aspects of the use of the orbit, for which ITU was not exclusively responsible, was to reach fruition.

7. Telecommunication development was being held up by overcrowding in the planned frequency bands and in a number of cases the prescribed coordination procedure had failed. Pursuant to resolution 18 adopted at ITU's Plenipotentiary Conference (Kyoto, 1994), steps were being taken to enhance the effectiveness of the procedure, including insistence on strict accountability in the execution of programmes and the provision of deposits to cover claims. Little use was made of planned frequency assignments, which represented frozen capacity that countries held in reserve for future use. A reduction in the period of reservation of orbital capacity for projected systems from nine years to five or six years might offer a partial solution to the problem of "paper satellites". It would be useful to discuss ways and means of controlling the use of the geostationary-satellite orbit and of resolving conflicts between prospective users, while respecting the principle of equitable access to the orbit. Imperfections in the application and registration procedure for frequency assignments meant that access to the orbit for new systems was very complicated, but none the less feasible, as evidenced by the recent registration of satellites from developing countries such as Brazil, China, India, Indonesia, the Islamic Republic of Iran, Mexico, Papua New Guinea and Togo.

8. A clear demarcation between ITU's mandate and that of the Committee on the Peaceful Uses of Outer Space was essential in order to ensure equitable and effective use of the geostationary-satellite orbit, while at the same time promoting sustainable development. The Committee's mandate should include the removal from the geostationary orbit of spent satellites; safeguarding the interests of countries that used telecommunication satellites for educational aims and socio-cultural development; and assessment of the impact of planned low-orbit satellite systems on existing satellites in the geostationary orbit.

9. The new working paper submitted by Colombia (A/AC.105/C.2/L.200 and Corr.1) offered hope of progress in the search for a balanced and rational solution to the problems associated with the geostationary orbit. While agreeing in principle with the approach adopted in the working paper, his delegation felt that recommendation (a) should be expanded to make it clear that the principles set forth in the paragraph applied only to systems of developing countries that were intended to serve their national territory. Systems to be used for international telecommunications, as well as mere "paper satellites", should not be entitled to a simplified or priority procedure for access to the geostationary orbit. He pointed out that the list of frequency bands and services reproduced in the working paper was not exhaustive. Other orbital positions and frequencies had been allocated on the basis of the coordination procedure which, however flawed, was much more flexible than the planned approach. Most planned assignments existed only on paper and it had become virtually impossible to allocate new frequency bands for satellite networks.

10. He agreed that spent satellites should be removed from the geostationary orbit, but considerable discussion would be necessary in order to arrive at an acceptable provision on the subject.

11. **Mr. AMROHI** (India) said that he shared the concern of other delegations at the lack of progress on the item. Although the absence of a definition of outer space had not yet caused any practical problems, the development of "aerospace objects" called for the early elaboration of an appropriate legal regime. It was to be hoped that progress in that respect would be assisted by further replies to the questionnaire on aerospace objects (A/AC.105/607, annex I, appendix).

12. He welcomed the new working paper on the geostationary orbit (A/AC.105/C.2/L.200 and Corr.1), which highlighted the difficulties faced by the developing countries and their unequal position in regard to the ITU coordination procedures. His delegation was in favour of those procedures being simplified in order to assist the developing countries. With regard to recommendation (a), he submitted that the term "equitable" in relation to access to the geostationary-satellite orbit was difficult to define and to apply in practice. It might therefore be useful to specify criteria or guidelines for determining the elements to be taken into account in that regard.

13. On the question of space debris, although the Scientific and Technical Subcommittee was discussing the technical aspects of the problem, it was appropriate that the set of principles recommended in the working paper should refer to it as well, in view of the real danger presented by space debris for the safe operation of satellites in the geostationary orbit.

14. **Mr. HASENKOPF** (Czech Republic), commenting on the definition and delimitation of outer space, said that the hope had been that the replies to the questionnaire on legal issues with regard to aerospace objects (A/AC.105/607, annex I, appendix) would enable the Subcommittee to determine the extent to which the use of such objects was covered by existing space legislation and whether it called for the development of a new legal regime. The number of replies received to date, which included that of his own country, fell short of expectations. Any States that were still willing to respond to the questionnaire should be asked to do so within a reasonable period. The Subcommittee should state its intention to conclude its analysis of the replies at its 1997 session and set out its findings in its report on that session to the Committee on the Peaceful Uses of Outer Space.

15. With regard to the geostationary-satellite orbit, his delegation welcomed the new working paper (A/AC.105/C.2/L.200 and Corr.1). It believed that the orbit and the radio-frequency spectrum were limited natural resources that should be used rationally, efficiently, economically and equitably for the benefit of all States. The paper's recommendations sought to reconcile conflicting claims to the same orbital position by a country that already had access to the geostationary-satellite orbit and one that had not. His delegation considered that the recommendation in paragraph (a) required further detailed analysis in the light of existing ITU practice.

16. **Mrs. ÜNEL** (Turkey) welcomed the new Colombian document (A/AC.105/C.2/L.200 and Corr.1), whose conclusions were based essentially on article 44 of the Constitution of ITU, a provision which Turkey, as a member of that organization, fully endorsed. One conclusion to be drawn from that article was that, in order to allow equitable access to the geostationary orbit, the Radio Regulations must be observed. The Regulations constituted an international instrument with mandatory force and were the only legal source to which the article made reference; it was through them that the special needs of the developing countries were to be taken into account. If the Radio Regulations did not permit equitable access to the geostationary orbit,

taking into account those special needs, they should be amended. At that point the Subcommittee must remember that, in dealing with the use of the orbit, its mandate required it to act without prejudice to the role of ITU. Moreover, legally speaking, it was wrong to interpret and apply a convention that had the force of law by resort to a General Assembly resolution, a class of instrument which generally did no more than enunciate guiding principles.

17. That was particularly so in the case of the Colombian recommendation (a), which would give preference to developing countries with space capability over countries that were no longer developing but had little or no space industry. In effect, the recommendation would create preferential rights for a particular category of countries, a situation contrary to article 1 of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, which provided that those activities should be carried out for the benefit and in the interests of all countries irrespective of their degree of economic or scientific development.

18. In conclusion, her delegation did not believe that the Colombian document would assist the Subcommittee, but in a spirit of compromise it would not object if the Subcommittee decided that the document should be used as the basis for its future work on the geostationary orbit. However, her delegation remained firmly opposed to the idea that the level of national development should be a criterion for access to the orbit.

19. **Mr. DJELANTIK** (Indonesia) stressed the need for a special legal regime to regulate access to and utilization of the geostationary orbit by all States, taking into account the needs of developing countries and the particular situation of the equatorial countries. His delegation welcomed the new working paper presented by Colombia (A/AC.105/C.2/L.200 and Corr.1). In his view the roles of ITU and of the Subcommittee were complementary. The Subcommittee could contribute to establishing a special legal regime to regulate the use of the geostationary orbit; ITU regulated only the technical aspects of its utilization, while the Committee on the Peaceful Uses of Outer Space and its subcommittees were concerned with the political and legal aspects of the peaceful uses of outer space. Cooperation with ITU should therefore continue. He suggested that, at its thirty-sixth session, the Subcommittee should continue to elaborate legal principles for the use of the geostationary orbit without prejudice to the role of ITU.

20. **Mr. LOIBL** (Austria) said that his delegation favoured a functional approach to the question under consideration and to the questionnaire. The answers to the questionnaire supported his delegation's view that areas should be identified in which more work was needed. The Subcommittee might consider developing model rules as part of its work. Customary international law would be very difficult to identify in such a new area as space law. If the Subcommittee decided to take up the question of space debris it should adopt a comprehensive approach to the subject. He welcomed the new Colombian working paper (A/AC.105/C.2/L.200 and Corr.1), which would further the debate on the geostationary orbit.

21. **Mr. de YTURRIAGA** (Spain) thanked the delegation of Colombia for its new working paper. His delegation approved the general objective of equitable access to the geostationary orbit, taking into account the needs of the developing countries and other countries in a specific geographical situation. However, problems of definition arose: "equitable", for instance, was a subjective expression and hard to define. What was equitable for one country might not be so for another. In addition, what was meant by a "developing country"? Mexico, classified as a developing country, had already joined the Organisation for Economic Co-operation and Development; Colombia and Brazil were developed technologically but had no space industry. It would therefore be better to take a pragmatic approach, like that of ITU, to issues connected with

the geostationary orbit. He agreed with the Turkish representative that rules of law could not be modified by resolutions of the General Assembly. It would be best to leave changes of that kind to ITU, of which almost every country on the Subcommittee was a member.

22. He approved the idea that the Subcommittee should direct its attention to issues such as space debris, on which there was some prospect of progress.

## QUESTION OF REVIEW AND POSSIBLE REVISION OF THE PRINCIPLES RELEVANT TO THE USE OF NUCLEAR POWER SOURCES IN OUTER SPACE

23. **The CHAIRMAN** reminded the Subcommittee that the Scientific and Technical Subcommittee, at its thirty-third session, held earlier that year, had concluded that at the present time revision of the Principles Relevant to the Use of Nuclear Power Sources in Outer Space was not warranted (A/AC.105/637, para. 70). He therefore suggested that the Legal Subcommittee might, as it had done the previous year, decide not to open the item for discussion. It might at the same time wish to agree that, at its next session in 1997, consideration of the Principles by the Working Group on agenda item 3 should again be suspended for one year pending the results of the work in the Scientific and Technical Subcommittee, without prejudice to the possibility of reconvening the working group on that item if, in the opinion of the Legal Subcommittee, sufficient progress was made in the Scientific and Technical Subcommittee at its 1997 session to warrant doing so. He suggested that the item should be retained on the Subcommittee's agenda to give delegations an opportunity to discuss it in plenary meetings. The Subcommittee had adopted the same arrangements the previous year (see document A/AC.105/607, paras. 27 and 29).

24. He noted that no delegation had expressed the wish to address the item. He would therefore take it, if he heard no objection, that the Subcommittee did not wish to open discussion of the item at the present session and that the arrangements he had just described were acceptable.

25. *It was so decided.*

*The meeting rose at 11.15 a.m.*

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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

# SUMMARY RECORD OF THE 593rd MEETING

Held at the Vienna International Centre, Vienna,
on Friday, 22 March 1996, at 10 a.m.

**Chairman**: Mr. MIKULKA (Czech Republic)

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OTHER MATTERS

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*The meeting was called to order at 10.20 a.m.*

**OTHER MATTERS**

1. **The CHAIRMAN** reminded the Subcommittee that, at its previous session, it had recommended the inclusion of the present item on its agenda, with no more than one meeting being allocated to it. Those arrangements had been endorsed by the Committee on the Peaceful Uses of Outer Space and the General Assembly. It seemed appropriate, under that item, to consider the request of the General Assembly in paragraph 12 of its resolution 50/27 that the Subcommittee should review its requirement for summary records, with a view to determining whether it might be possible to utilize unedited verbatim transcripts. He drew attention to the Secretariat's note on the subject (A/AC.105/C.2/1996/CRP.6).

2. **Mrs. BATACLAN** (Philippines) said the proposal was prompted by the overall financial situation of the United Nations, which inevitably affected the work of the Subcommittee. She asked the Secretariat to comment on the situation in other United Nations bodies with regard to the use of unedited transcripts instead of summary records, and to explain the financial savings which would be achieved if the move was adopted.

3. **Mr. JASENTULIYANA** (Secretary of the Subcommittee) said that the Committee on the Peaceful Uses of Outer Space had been the first United Nations committee, in 1995, to decide to use unedited verbatim transcripts. The General Assembly was now asking other United Nations committees to follow that example. General Assembly resolution 50/27 did not apply to the Scientific and Technical Subcommittee, which had no summary records. The transcripts involved would be typed directly from the taped recordings of the meeting, taken either from the floor tape or from the interpretation. Unlike official records, they would be neither edited nor translated. Delegations would be free to submit corrections to the transcripts, whereupon the Secretariat would issue a compendium of the corrections. The resulting savings, as explained in paragraph 5 of the Secretariat's note, would be of the order of $128,000 to $180,000 and would be made in the conference service budget, not in that of the Office for Outer Space Affairs.

4. **Ms. KATO** (Japan) said that the question of using unedited transcripts had been raised in the Committee on Conferences in New York, where the Secretariat had been unable to comment on the implications of the change because of its lack of experience in the matter. She asked whether the reduction in the Subcommittee's documentation would carry any programme budget implications.

5. **Mr. JASENTULIYANA** (Secretary of the Subcommittee) said that the decision to use unedited transcripts for the proceedings of the Committee on the Peaceful Uses of Outer Space had been approved by the Committee on Conferences and endorsed by the General Assembly. In adopting resolution 50/27, the General Assembly was therefore well aware of what was involved. The measure did not carry any programme budget implications, the saving being treated as a saving in the cost of conference services over the biennium.

6. **Mrs. BATACLAN** (Philippines) asked why verbatim transcripts, which were longer than summary records, were nevertheless cheaper to produce.

7. **Mr. JASENTULIYANA** (Secretary of the Subcommittee) explained that all official records had to be edited and then translated into all of the six official languages, at a considerable cost in terms of Professional staff time. However, an unedited transcript typed in Vienna would not involve any Professional staff time, and could therefore be produced much more cheaply. As explained in paragraph 4 of the

Secretariat's note, a further saving would result from limiting the distribution of the transcripts to the members of the Committee and the Secretariat.

8. **The CHAIRMAN** said that, unless he heard any objection, he would take it that the Subcommittee decided, for its future sessions, to utilize unedited verbatim transcripts instead of summary records.

9. *It was so decided.*

10. **Mr. SCHEPISI** (Italy) raised the question of the Subcommittee's working methods. A review of the work of United Nations bodies had shown that there was no relationship between the quality of the work achieved and the number of meetings. The crucial factor appeared to be the extent to which delegations were actively involved in the discussion of agenda items. He took the view that the Subcommittee could complete its sessions within one week. The discussion of an agenda item should be brought to a close as soon as it became apparent that delegations were not interested in discussing it further. The Subcommittee might then recommend that such items should not be dealt with at the following session. It would be helpful to plan a specific duration for the discussion of each item, for instance one or two sessions. The Secretariat should play a wider role in the Subcommittee's substantive work, based on the expertise of the Office for Outer Space Affairs. With a view to accelerating and sharpening the focus of that work, the Secretariat might invite individual experts and legal and other non-governmental organizations to submit appropriate papers and studies.

11. **Ms. KATO** (Japan) agreed with the views expressed by the previous speaker. She suggested that the Subcommittee should recommend that the Committee on the Peaceful Uses of Outer Space, at its session in June 1996, take account of the views expressed by delegations on ways of further improving the Subcommittee's working procedures.

12. **Mr. KIM** (United States of America) endorsed the comments made by the representatives of Italy and Japan. His delegation approved the idea that an appropriate duration should be fixed for the sessions of the Subcommittee.

13. **Mr. LOUET** (France) agreed. His delegation welcomed all efforts to rationalize the Subcommittee's working methods.

14. **Mr. SINGH** (India) said the emphasis should be on flexibility. He approved the practice whereby, at the beginning of its session, the Subcommittee reviewed its agenda and decided whether its session should last for three weeks or less. The Subcommittee had made significant contributions to the development of space law and should now consider what further progress it could make in that field.

15. **Mrs. BATACLAN** (Philippines) agreed with the representative of Italy that the Secretariat should play a more active role in the Subcommittee's work, thereby enabling the Subcommittee, and its parent body, to advance outer space law and promote international cooperation in that respect. International cooperation in other fields having recently been stepped up, there was a feeling that the Subcommittee was not moving as fast as it should in refining and updating the legal principles which should apply to outer space. By drawing upon the work of experts and non-governmental organizations, the Secretariat could ensure that the Subcommittee made progress. She also agreed with the representative of Italy that it was the level of interest on the part of delegations which made work productive. However, items not pursued by the Subcommittee at a given moment should not be regarded as having been deleted from its agenda. The aim should be to promote more committed and cooperative discussion and to make the Subcommittee's work more effective.

16. **Mr. ARIZAGA** (Ecuador) agreed with the representative of India that the Subcommittee should maintain a flexible approach to its work, remaining ready to review its methods where appropriate but nevertheless pursuing its substantive activities.

17. **Mr. FIUZA NETO** (Brazil) also agreed with the representative of India. The duration of the Subcommittee's sessions should be reduced on an ad hoc basis only, where it was apparent at the beginning of the session that the items on the agenda would not absorb the whole of the time allotted to the session. No decision on the deletion of individual agenda items should be taken until the question of additional agenda items had been fully resolved.

18. **Mrs. PENSADO MORENO** (Mexico) and **Mr. VELAZCO SAN JOSÉ** (Cuba) supported the statements made by the delegations of India, Ecuador and Brazil.

19. **Mr. KIM** (United States of America), bearing in mind that the Subcommittee had agreed at its previous session to adopt a flexible approach to its working methods and to aim at reducing the duration of its sessions to two weeks, suggested that future sessions should be scheduled to run for a two-week period extendable on an ad hoc basis.

20. **Mr. HEDMAN** (Sweden) said that he fully approved the statements made by the delegations of Italy and the United States.

21. **Mr. KOPAL** (Czech Republic), responding to the suggestion made by the Italian delegation with regard to the role of the Secretariat, said that while the services performed by the Secretariat on behalf of the Subcommittee were invaluable, it was for delegations themselves to put forward new ideas and examine in greater depth the questions referred to them. Expert advice was often provided by observer delegations such as that of the International Telecommunication Union and by non-governmental organizations, but more experts should be included in the delegations of Member States. The Legal Subcommittee's main strength lay in the political will of delegations to participate effectively in its proceedings and reach a consensus on the matters it discussed.

22. **Ms. VENTURINI** (Italy) supported the suggestion made by the United States delegation. The implications for the duration of sessions of introducing new agenda items could be addressed in informal consultations.

23. **The CHAIRMAN** said that he had been surprised at the earlier suggestion by the Italian delegation that the session might be reduced to one week; that could not be done without delegates' right to speak being violated. Night meetings were a possible solution to the problem of the length of sessions but their financial implications would doubtless be prohibitive. No delegation uninterested in a particular item was obliged to take the floor on it, but at the same time he had no authority to disregard the mandate of the General Assembly and decide that certain items should not be discussed.

24. **Mr. ZVEDRE** (Russian Federation) complimented the Chairman on his conduct of the Subcommittee's business and on the flexible methods that he employed to maximize its efficiency. He had the impression that shortening the duration of sessions had become an end in itself for the Subcommittee, which seemed to have forgotten the purpose for which it was assembled. Decisions regarding the duration of sessions should be taken on an ad hoc basis; two weeks would probably be sufficient unless new items were added to the agenda.

25. **Mr. FIUZA NETO** (Brazil) associated himself with the views expressed by the Russian delegation.

26. **Mr. HUANG Huikang** (China) fully supported the views expressed by the Russian delegation. The Subcommittee had made considerable progress under its present chairman in improving its working methods. With regard to the criticism expressed about the duration of its sessions, he suspected that the very function of the Subcommittee was at issue. Although it was a body that could boast of noteworthy achievements over the previous 30 years in the preparation of legal instruments governing outer space, there seemed to be a current of opinion to the effect that it had now served its purpose, since future space activities would tend to be regulated by market forces. Similar trends were discernible in other bodies; for example, at the last session of the Special Committee on the Charter of the United Nations some delegations had suggested a drastic curtailment of that Committee's activities or even its disbandment. Such views should not be entertained; the expansion of outer space exploration and activities created a need for new legal regimes and the Subcommittee's role in elaborating them should be strengthened rather than undermined.

27. **The CHAIRMAN** observed that if a one-week session was scheduled, the funds would be sufficient to cover that week only and there would be no room for flexibility in the conduct of proceedings. At the current session that flexibility had been maintained and yet it looked as through the proceedings might be concluded by the middle of the second week.

28. **Ms. VENTURINI** (Italy) said that her delegation greatly appreciated the Chairman's skilful leadership. Its reference to a one-week session had been prompted by the practice of other bodies of the United Nations system that met in Vienna. She realized that a one-week session would not be possible in 1997 and proposed that a two-week session should be scheduled on the understanding that the issue of the duration of sessions might be discussed in the context of the possible addition of new items.

29. **Mr. FIUZA NETO** (Brazil) said that his delegation could not support that proposal. He understood flexibility to mean a three-week session with the possibility of an ad hoc reduction to two weeks or even one, depending on progress in the proceedings.

30. **Mr. SALAZAR** (Chile) said that his delegation favoured the principle of flexibility. There was no good reason for adopting a rigid position about the length of sessions, as evidenced by the course of the proceedings at the current session.

31. **Mr. JASENTULIYANA** (Secretary of the Subcommittee), replying to a question from **Mr. McINTOSH** (Australia), said that there was no difference in cost between scheduling a two-week session at the outset and scheduling a three-week session which was subsequently curtailed to two weeks.

32. **Mr. SINGH** (India) shared the view expressed by the Brazilian delegation. He pointed out that although agenda item 3, on the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, was not being discussed at the current session, progress in the work of the Scientific and Technical Subcommittee might warrant the reconvening of the working group on that item at the next session.

33. **The CHAIRMAN**, noting that opinions were still divided on the duration of the Subcommittee's thirty-sixth session, said that he would hold informal consultations with delegations with a view to reconciling the conflicting views so that a consensus decision could be taken on the matter later in the session.

*The meeting rose at 11.25 a.m.*